

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

06-CR-6024L

v.

ALGERNON TOOLE,

Defendant.

Defendant Algernon Toole's ("Toole") motion (Dkt. #410) for reconsideration of his sentence based on a recent United States Supreme Court decision, *Alleyne v. United States*, decided June 17, 2013, is in all respects denied. *Alleyne* does not affect the judgment and sentence of Toole and, even if it did, there is no basis to retroactively apply the *Alleyne* decision which was decided many years subsequent to Toole's conviction after trial and sentence. *See United States v. Redd*, 2013 U.S. App. LEXIS 22423, 2d Cir. November 5, 2013).

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 7, 2013.